

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

SHAMEKA PHILLIPS,)	
)	
Plaintiff,)	Case No. 3:20-cv-00436
)	
v.)	
)	
BIOMET, INC.,)	Removed from Kosciusko Superior Court
)	Cause No. 43D04-2004-CT-000040
Defendant.)	

NOTICE OF REMOVAL

Defendant, Biomet, Inc. ("Defendant"), by counsel, hereby removes this action from the Kosciusko County Superior Court in the State of Indiana to the United States District Court, Northern District of Indiana, South Bend Division, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. In support of this Notice, Defendant states:

1. Plaintiff, Shameka Phillips ("Plaintiff"), initiated this action on or about April 27, 2020, by filing a Complaint in the Superior Court of Kosciusko County, Indiana, against Defendant (Cause No. 43D04-2004-CT-000040) (hereafter "State Court Action").

2. Plaintiff served Defendant with a copy of the Summons and Complaint by United States Certified Mail on May 6, 2020. True and correct copies of the Summons and Complaint filed in the State Court Action are attached as **Exhibit A**. All other documents served on Defendant or filed in the State Court Action by Defendant, as well as a copy of the Chronological Case Summary, are attached as **Exhibit B**. Defendant has not yet served a responsive pleading or made any argument to the Complaint in the State Court Action.

3. Defendant filed this Notice of Removal within 30 days of receiving the initial pleadings and within one year of the commencement of this action pursuant to 28 U.S.C. §

1446(b)-(c). Because the Superior Court of Kosciusko County, Indiana, lies in the Northern District of Indiana, this Court is the appropriate venue for removal. *See* 28 U.S.C. §§ 94(a)(2) and 1441.

4. Plaintiff's Complaint alleges violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, and 42 U.S.C. § 1981.

5. Because the Complaint brings claims arising under federal law, this Court has original jurisdiction over the action pursuant to 28 U.S.C. § 1331.

6. Upon filing of this Notice, Defendant has paid the required filing fee of \$400.00.

7. By removing this action, Defendant does not waive any defenses available to it, nor does it admit any of the allegations in Plaintiff's Complaint.

8. There are no other parties to this litigation, thus consent of other parties is not required.

9. After filing this Notice of Removal, Defendant will promptly serve written notice on Plaintiff's counsel and file the same with the Clerk of the Kosciusko County Superior Court, in accordance with 28 U.S.C. § 1446(d).

WHEREFORE, consistent with this Notice, Defendant removes the above-described action now pending in the Superior Court of Kosciusko County, Indiana, to the United States District Court, Northern District of Indiana, South Bend Division. Defendant preserves all other bases for removal of this action to this Court.

Dated: June 1, 2020

Respectfully submitted,

s/ Dorothy D. McDermott
Dorothy D. McDermott
IN Atty No. 24266-49
Jackson Lewis P.C.
211 North Pennsylvania Street, Suite 1700
Indianapolis, Indiana 46204
Tel: (317) 489-6930
Fax: (317) 489-6931
E-mail: dorothy.mcdermott@jacksonlewis.com

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of June, 2020, a copy of the foregoing has been served by depositing a copy of the same in the United States mail, first class postage prepaid, to the following counsel of record for Plaintiff:

Christopher C. Myers
CHRISTOPHER C. MYERS & ASSOCIATES
809 South Calhoun Street, Suite 400
Fort Wayne, IN 46802
cmyers@myers-law.com

s/ Dorothy D. McDermott
Dorothy D. McDermott